IN THE HIGH COURT OF BOMBAY AT GOA

STAMP NUMBER (APPLN.) NO. 1257 OF 2007
IN
SECOND APPEAL NO. 15 OF 2007

FR. ANTONIO JOSE MINGUEL FIGUEIREDO(SINCE DECEASED)THROUGH HIS LR'S ... Appellant

Versus

SHRI LOURENCO RODRIGUES AND 4 ORS., ... Respondents

Ms. Priyanka Kamat, Advocate for the applicants.

Coram:- S.A.BOBDE, J.

Date:- 3rd May, 2007

P.C.

The application mentioned is taken on Board.

Instead of the substantial questions of law incorporated in the Order dated 19th April, 2007, the following shall be the substantial questions of law :

(1) Whether the respondents/plaintiffs instituted suit claiming reliefs based on the title of one person and claiming that such person is their mother, whether it is incumbent on the respondents/plaintiffs to establish the said relationship irrespective of the contention of the other side in the written statement and failure to establish the relationship would amount to dismissal of suit on that count alone ?

(2) Whether Smt. Ana Maria Fernandes was mother of the

Respondents/plaintiffs is a fact peculiar within the special knowledge of the respondents and under Section 106 of the Indian Evidence Act, the burden of proving such fact lies on the person who has special knowledge and therefore even if the denial in the written statement is not strictly in compliance with Order 8, Rule 3 of the Civil Procedure Code, would not dispense with such burden ?

S.A.BOBDE, J.

ssm.